

**From:** S. Gallagher  
**To:** Microsoft ATR  
**Date:** 1/27/02 3:12pm  
**Subject:** Microsoft Settlement

January 27, 2002  
Renata Hesse  
Trail Attorney  
Antitrust Division  
U.S. Department of Justice  
601 D Street, N.W., Suite 1200  
Washington, D.C. 20530  
Email: microsoft.atr@usdoj.gov

Re: Microsoft Proposed Final Judgement Comment

Dear Sir or Madam,

Thank you for the opportunity to comment on the proposed Microsoft Final Judgement. My comments center around minor modifications to subsections III.A.2 and III.C.4 concerning original equipment manufactures (OEM) installation of alternative operating systems. Given the central importance of restoring competition for antitrust relief I believe that clarification of subsection III.A.2 and III.C.4 and an additional aspect of the extant OEM operating system license arrangement merit consideration. I hope that you will concur that these adjustments will enhance the possibility that competition may one day return to the present monopoly in the personal computer market.

A. Subsections III.A.2 and III.C.4 both refer to OEM's shipping personal computers with products in addition to Microsoft products or multiple operating systems. The language in these provisions would not prohibit Microsoft from retaliating if an OEM offered consumers a single alternative operating system. Given that a monopoly was found to exist and that the purpose of antitrust enforcement is the restoration of competition, shouldn't OEM's be able to offer consumers alternatives without fear of retaliation from the monopolist?

B. At present the OEM Windows Operating System license requires recourse to the OEM by a consumer if the consumer does not accept the terms of the licensing agreement. If consumers remove an OEM installed Windows Operating System product before using it they should be insured of recompense from either the OEM or Microsoft. Given that Section III.B requires the publishing of the royalty schedule for Windows Operating System Products it should be possible for consumers to know the exact cost of the OEM installed Windows Operating System and, as a result, their corresponding recompense if they chose not to accept the license. Given this information a consumer could make a rational choice between the OEM installed Windows

Operating System and some other alternative operating system. Given that a monopoly was found to exist in the Personal Computer operating system market, it seems the Proposed Final Judgement should insure that customers are not needlessly charged for the monopolist's product if they do not use it. As a customer, I should not have to buy a product I don't want. If I do not agree to Microsoft's licensing agreement language, my recourse should include them, not only the OEM.

Microsoft can make very good products, this comment is being created and transmitted using them. I applaud the efforts towards reaching an appropriate settlement.

Thank you for your time and the opportunity to comment.

Sincerely,

Scott Gallagher  
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